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10/614,948

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John J. McSheffrey

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EXAMINER

NGUYEN, DINH Q

ART UNIT

PAPER NUMBER

3752

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/614,948

Applicant(s)

MCSHEFFREY ET AL.

Examiner

Dinh Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 01 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 6-10, 18-25, 27, 28, 30-37 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6-10, 18-25, 27, 28, 30-37, 39-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-8, 18-21, 27, 28, 30-32, 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. in view of Nishimoto et al.

Morgan et al. teaches all the limitations of the claims except for a sonar detector for detection of the presence of an obstruction to viewing the emergency equipment station. However, Nishimoto et al. discloses an obstruction detector that including ultrasonic transmitter and receiver 16-19 and an electronic circuit 35-42 for transmitting a signal to a controller 20. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Morgan et al. with a sonar detector for detection of the presence of an obstruction to viewing as suggested by Nishimoto et al. Doing so would provide useful operational data to maintain the device in an operational condition.

With respect to claim 8, to have the detection range of 6 inches to 10 feet is obvious with one skilled in the art and furthermore, one of ordinary skill in the art would have expected Applicant's invention to perform equally well with either claimed dimensions or the Nishimoto et al. dimensions. Therefore, it would have been an

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obvious matter of design choice to modify the device of Morgan et al. in view in view of Nishimoto et al. to obtain the invention as specified in claim 8.

3. Claim 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Cronin et al. in view of Nishimoto et al.

Cronin et al. teaches all the limitations of the claims except for a detector for detection of the presence of an obstruction to viewing the emergency equipment station. However, Nishimoto et al. discloses an obstruction detector that including ultrasonic transmitter and receiver 16-19 and an electronic circuit 35-42 for transmitting a signal to a controller 20. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Morgan et al. with a sonar detector for detection of the presence of an obstruction to viewing as suggested by Nishimoto et al. Doing so would provide useful operational data to maintain the device in an operational condition.

4. Claims 9, 10, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. in view of Nishimoto et al. as applied to claims 1, 6-8, 18-21, 27, 28, 30-32, 40-43 above, and further in view of Rockwell et al.

Morgan et al. in view of Nishimoto et al. teaches all the limitations of the claims except for the communication between two emergency equipment stations. However, Rockwell discloses an emergency equipment station with wireless communications that is capable with point -to-point communication with another emergency equipment station (see column 11, lines 25+). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Morgan et al. and Nishimoto et al. with the communication between two emergency equipment stations as suggested by

Rockwell. Doing so would provide a convenience and effective emergency equipment station (see column 5, lines 2-57).

5. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. in view of Nishimoto et al. as applied to claims 1, 6-8, 18-21, 27, 28, 30-32, 40-43 above, and further in view of Cronin et al.

Morgan et al. in view of Nishimoto et al. teaches all the limitations of the claims except for a detector for a low battery condition. However, Cronin et al. discloses an emergency equipment station 10 having a portable defibrillator, one or more batteries with a low battery detector 18/19 (see column 4, lines 29-37). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Morgan et al. and Nishimoto et al. with the communication between two emergency equipment stations as suggested by Cronin et al. Doing so would provide a convenience and effective emergency equipment station.

6. Claims 36, 37, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cronin et al. in view of Nishimoto et al. as applied to claim 35 above, and further in view of Morgan et al.

Cronin et al. in view of Nishimoto et al. teaches all the limitations of the claims except for a wireless or a hardwire communication. However, Morgan et al. discloses an emergency equipment station with wireless or hardwire communication capabilities. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Cronin et al. and Nishimoto et al. with a wireless or a hardwire

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communication as suggested by Morgan et al. Doing so would provide a versatile emergency equipment station (see column 1, lines 25-40).

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1, 6-10, 18-25, 27, 28, 30-37, 39-43 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 21-32, 39-50, 70-77 of copending Application No. 10/863,668. Although the conflicting claims are not identical, they are not patentably distinct from each other because of common subject matter, as follows:

Claim 1 of the instant application cites an emergency equipment station, a detector for detection of the presence of an obstruction to viewing the emergency

equipment station, a defibrillator, and a signal, which are fully disclosed in claims 1, 21 and 25 of the '668 application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Response to Arguments***

9. Applicant's arguments filed 3/01/07 have been fully considered but they are not persuasive.

10. Applicant's arguments with respect to claims 1, 6-10, 18-25, 27, 28, 30-37, 39-43 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dinh Q Nguyen  
Primary Examiner  
Art Unit 3752

dqn